

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case No. 2:18-cr-00155-MMD-DJA

Plaintiff.

ORDER

MARTANE WADE,

Defendant

I. SUMMARY

Defendant Martane Wade, who is not a pretrial detainee, has moved for an order immediately granting his temporary release due to the coronavirus disease 2019 (“COVID-19”) pandemic under 18 U.S.C. § 3142(i) (“Motion”). (ECF No. 89.)¹ The Court has considered the government’s response (ECF No. 91) and Wade’s reply (ECF No. 92). The Court finds that § 3142(i) does not apply to Wade and he has otherwise established no compelling or exceptional reason for the Court to grant him temporary release. The Court will therefore deny the Motion.

II. BACKGROUND

The following background facts are undisputed and are referenced in both parties' briefing (see ECF No. 89 at 1 n.1; ECF No. 91 at 1-2).

Wade is a post-plea defendant detained at the Nevada Southern Detention Center (“NSDC”). On September 6, 2019, Wade entered pleas of guilty to both counts of a two-count superseding information charging him in Count One with possession with the intent to distribute 500 grams or more of methamphetamine in violation of 21 U.S.C. 841(a)(1) and (b)(1)(A) and in Count Two with being a felon in possession of two firearms. (ECF No.

111

¹The Motion was brought as an emergency motion, but the Court concluded that it was not and directed the normal briefing schedule. (See ECF No. 90.)

1 73.) The Court ordered him remanded into custody pending sentencing, which is currently
2 scheduled for June 19, 2020. (*Id.*)

3 Based on his pleas of guilty and criminal history, Wade is facing a mandatory
4 minimum sentence of 120 months (about 10 years) in custody. Prior to his pleas, Wade
5 had been detained as a flight risk and a danger to the community. (See ECF No. 14.)

6 **III. DISCUSSION**

7 Under § 3142(i), a “judicial officer may . . . permit the temporary release of the
8 person, in the custody of a United States marshal or another appropriate person, to the
9 extent that the judicial officer determines such release to be necessary for preparation of
10 the person’s defense or for another compelling reason.” 18 U.S.C. § 3142(i). However, the
11 section “by its terms applies to pre-trial unconvicted detainees. By its plain language it
12 does not apply to [§] 3143 which governs the detention after conviction.” *United States v.*
13 *Gerrans*, No. 18-CR-00310-EMC-1, 2020 WL 1865420, at *1 (N.D. Cal. Apr. 14, 2020)
14 (citation omitted). Here, Wade has pleaded guilty and is merely waiting to be sentenced
15 at this juncture. The Court accordingly finds that Wade cannot seek relief under § 3142(i)
16 because he is no longer a pretrial detainee.

17 Because Wade’s Motion is brought solely under § 3142(i), the Court need not
18 further consider whether relief is warranted under other provisions. Nonetheless, as the
19 government argues (see generally ECF No. 91), the Court additionally finds that Wade is
20 also not entitled to relief under the relevant provisions—18 U.S.C. § 3143(a)(1), (2) or 18
21 U.S.C. § 3145(c).

22 Under § 3143(a)(1), a person who is awaiting sentence may be granted release
23 where “the judicial officer finds by clear and convincing evidence that the person is not
24 likely to flee or pose a danger to the safety of any other person or the community if released
25 under [§] 3142(b) or (c).” 18 U.S.C. § 3143(a)(1). Wade was previously determined to be
26 a flight risk and a danger to the community. (See ECF No. 14.) Wade’s Motion offers no
27 new information to cause the Court to change such finding. Wade therefore cannot obtain
28 relief under § 3143(a)(1).

1 Under subsection (a)(2), a person convicted and awaiting sentence should be
2 *detained unless*: 1) there is a substantial likelihood that a motion for acquittal or new trial
3 will be granted; or 2) the government makes a recommendation of no imprisonment; *and*
4 3) there is clear and convincing evidence that Wade is not a flight risk or danger to the
5 community. 18 U.S.C. § 3143(a)(2). Again, Wade cannot meet the third factor. Nor do the
6 two other factors apply here (or have been met). Accordingly, Wade is not entitled to relief
7 under § 3143(a)(2).

8 Lastly, § 3145(c) provides that “[a] person subject to detention pursuant to [§]
9 3143(a)(2) or (b)(2), *and* who meets the conditions of release set forth in [§]
10 3143(a)(1) or (b)(1),^[2] may be ordered released, under appropriate conditions, by the
11 judicial officer, if it is clearly shown that there are exceptional reasons why such person's
12 detention would not be appropriate.” 18 U.S.C. § 3145(c) (emphasis added). Based on the
13 Court's finding above concerning § 3143(a)(1)—that Wade does not meet its conditions
14 for release—§ 3145(c) plainly does not apply. Even if Wade had met § 3143(a)(1)'s
15 release requirements, he has not clearly shown that there are exceptional reasons why
16 his current detention is not appropriate, as separately required under § 3145(c). Nothing
17 in Wade's Motion supports a conclusion that, as to him, COVID-19 is an exceptional
18 reason for his release. (See *generally* ECF No. 89.) COVID-19 is simply an exceptional
19 occurrence as to all. To be sure, beyond the fact of COVID-19 and describing the
20 conditions at NSDC, Wade argues no individualized circumstance(s) or illness(es) that
21 uniquely sets him apart from all the other inmates at NSDC—particularly concerning the
22 Center for Disease Control and Prevention's description of high risk individuals³—to
23 ///
24 ///

25 ²Section 3143(b)(1) concerns release pending appeal and is therefore not at issue
26 here.

27 ³See Center for Disease Control and Prevention, Coronavirus Disease 2019
28 (COVID-19), <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html> (describing higher risk populations) (last visited May 19, 2020).

1 warrant relief under § 3145(c).⁴ Therefore, the Court additionally finds that temporary
2 release is not warranted under this section.

3 In short, Wade has not demonstrated under any applicable provision that he should
4 be released pending his sentencing.

5 **IV. CONCLUSION**

6 The Court notes that the parties made several arguments and cited to several cases
7 not discussed above. The Court has reviewed these arguments and cases and determines
8 that they do not warrant discussion as they do not affect the outcome of the issues before
9 the Court.

10 It is therefore ordered that Wade's motion for temporary release under § 3142(i)
11 (ECF No. 89) is denied.

12 DATED THIS 19th day of May 2020.



13
14 MIRANDA M. DU
15 CHIEF UNITED STATES DISTRICT JUDGE
16
17
18
19
20
21
22
23
24
25

26 ⁴The same would be true if the Court had considered the existence of "compelling"
27 reasons under § 3142(i). See, e.g., *United States v. Villegas*, No. 2:19-CR-568-AB, 2020
28 WL 1649520, at * 2 (C.D. Cal. Apr. 3, 2020) (collecting cases) ("But nothing in the Bail
Reform Act, including [§] 3142(i), authorizes pretrial release under these generic
pandemic conditions that—while undeniably grave—apply across the board to
every pretrial detainee in federal custody.").